

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOM M. FRANKS,

Petitioner,

v.

SUPERIOR COURT OF STANISLAUS  
COUNTY,

Respondent.

No. 1:20-cv-00136-DAD-EPG (HC)

ORDER DENYING PETITIONER'S MOTION  
TO REOPEN CASE

(Doc. No. 10)

On January 27, 2020, petitioner Tom M. Franks filed a habeas petition under 28 U.S.C. § 2254, challenging the state court's denial of his motion for DNA testing. (Doc. No. 1.) On February 11, 2020, after a preliminary review under Rule 4 of the Rules Governing Section 2254, the assigned magistrate judge recommended that petitioner's pending federal habeas petition be dismissed for failure to state a cognizable claim for habeas relief and that petitioner be granted leave to file a civil rights complaint brought pursuant to 42 U.S.C. § 1983. (Doc. No. 6.) On April 2, 2020, after no objections were filed by petitioner, the court adopted the findings and recommendations and granted petitioner sixty days to file his civil rights complaint. (Doc. No. 7.) When no civil rights complaint was filed by petitioner in this case within the time provided, on July 16, 2020, the court dismissed this action without prejudice to petitioner refiling his claims in a new civil action brought pursuant to § 1983 and closed this case. (Doc. No. 8.)

1 On July 31, 2020, petitioner filed the instant motion to reopen this case. (Doc. No. 10.)  
2 Therein, petitioner finally informs the court that on March 6, 2020, he filed a § 1983 complaint as  
3 a new case, No. 1:20-cv-003670 AWI-SAB, without informing the court of the new proceeding.  
4 (*Id.*)

5 Despite this confusion, the court finds that there is no good reason to reopen this habeas  
6 action. Given the court's adoption of the February 11, 2020 findings and recommendation, there  
7 is no need to reopen this case to continue litigating any claim for federal habeas relief. Moreover,  
8 because petitioner has brought his § 1983 civil rights claims in a newly filed case, there is no need  
9 to reopen this case for petitioner to file duplicative § 1983 claims here. Accordingly, petitioner's  
10 motion to reopen case (Doc. No. 10) is denied. Of course, he may continue to pursue his claims  
11 in Case No. 1:20-cv-003670 AWI-SAB.

12 IT IS SO ORDERED.

13 Dated: September 8, 2020

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UNITED STATES DISTRICT JUDGE